IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. : 1023/2002

Date of Decision: : 26.4.2007

Durga Dass …Petitioner.

-versus-

Director Consolidation of Holdings …Respondents.

Coram:

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting?* No.

For the Petitioner. : Mr. Rakesh Jaswal, Advocate.

For the Respondents :. Mr. M.S. Chandel, Advocate General with
Mr. M.A. Khan & Meenakashi Sharma, Dy.AG.

Rajiv Sharma, J. (oral):

Through this petition the petitioner has assailed order dated 15.6.2002 passed by the Director Consolidation of Holdings.

The brief facts, necessary for the disposal of this writ petition, are that the petitioner has filed the appeal before the Settlement officer, Land Consolidation Department, Bilaspur. The appeal was not entertained by the Settlement Officer, Land Consolidation Department, Bilaspur and the petitioner was advised to file a revision under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The order was passed by the Settlement Officer on 10.9.1992. The petitioner filed revision under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 inter alia on the following grounds:

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* *Whether the reporters of the Local Newspapers may be allowed to see the Judgment? No*

(i) “That Kh. No. 188, 193 have wrongly been taken away from the applicant and allotted to the respondent. This land is great market value and the applicant is entitled to get back these Kh. Nos.

(ii) That the learned C.O. has further wrongly allotted Kh. Nos. 161 & 162 to the respondents. These Kh. Nos. abuts the courtyard of the applicant.

(iii) That Kh.No.80 which was quite close to the other residential house of the applicant has illegally allotted to the respondents. He prayed that these Kh. May be allotted to him.”

The revision was preferred by the petitioner on 23.4.1993. Surprising to note that without adjudicating the revision preferred by the petitioner, the Director, Consolidation of Holdings has observed that the petitioner should have challenged the order before the Settlement Officer (CH) and the revision was accordingly dismissed by the Director, Consolidation of Holdings on 15.6.2002.

I have perused the record and heard the parties.

The appeal preferred by the petitioner was not entertained by the Settlement Officer as is evident from the contents of Annexure P-1 dated 10.9.1992. The observation was made by the Settlement Officer in his order dated 10.9.1992 that, if so advised, the petitioner can file revision under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The petitioner accordingly preferred revision under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 which was instituted on 23.4.1993 and decided on 15.6.2002.

Admittedly the revision remained pending with the Director, Consolidation of Holdings with effect from 23.4.1993 to 15.6.2002. The Settlement Officer, Land Consolidation Department, Bilaspur as well as

Director, Consolidation of Holdings have failed to exercise the jurisdiction vested in them. The fact of the matter is that the Settlement Officer has abdicated his jurisdiction by not deciding the appeal and merely making observations that the petitioner should file revision petition under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 in his order. Similarly, the Director, Consolidation of Holdings has also dismissed the revision by making erroneous observations that the petitioner should have filed the appeal before the Settlement Officer. In these circumstances the orders of the Settlement Officer and Director, Consolidation of Holdings have seriously prejudiced the case of the petitioner. The authorities, as prescribed under the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, have to exercise the jurisdiction vested in them in accordance with law instead of passing innocuous orders and putting the litigants to avoidable inconvenience. The petitioner had been pushed from pillar to post. The petitioner's appeal has been returned without adjudicating upon the same on 10.9.1992 and thereafter the petitioner on the basis of the observations made by the Settlement Officer has approached the Director, Consolidation of Holdings and has also rejected the revision in slipshod manner without due application of mind.

In view of the observations made herein above, the writ petition is allowed. The order dated 15.6.2002 is quashed and set aside. The Director, Consolidation of Holdings, H.P. is directed to re-hear the revision preferred by the petitioner on merits in view of the powers vested in him under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The Director, Consolidation of Holdings will

decide the revision by a speaking order and, if necessary, by calling and perusing the records from the subordinate authorities.

To avoid the delay, the parties are directed to make themselves available before the Director, Consolidation of Holdings on 14.5.2007.

Consequently the writ petition is disposed of with no order as to costs.

(Rajiv Sharma), Judge.

April 26, 2007
Awasthi